

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

CAREY LEWAN GRAM,

Defendant and Appellant.

C085786

(Super. Ct. No. 94F10155)

Defendant Carey Lewan Gram appeals from the trial court's order recommitting him to the Department of State Hospitals for one year as a mentally disordered offender, or "MDO." We will dismiss the appeal.

BACKGROUND

On August 11, 2017, the district attorney petitioned to continue defendant's commitment as a mentally disordered offender pursuant to Penal Code section 2972.¹ Defendant had previously been convicted of assault by force likely to inflict great bodily injury. (§ 245, subd. (a)(1).)

A trial was held, and a jury found defendant suffered from a severe mental disorder, causing him to represent a substantial danger of physical harm to others.

The superior court ordered defendant recommitted to the Department of State Hospitals for one year.

DISCUSSION

Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), stating that he has reviewed the record on appeal and has been unable to identify any specific issues arguable on appeal. Counsel states that he has informed defendant of the nature of the *Wende* brief and that he may file a supplemental brief if he so chooses. To date, we have received no communication from defendant. Counsel—while acknowledging the holding of *People v. Taylor* (2008) 160 Cal.App.4th 304 (*Taylor*)—asks that we review the record, pursuant to *Wende*, to determine whether there are any arguable issues on appeal. We will dismiss the appeal.

Taylor held *Wende* review does not apply to MDO commitments. (*Taylor*, *supra*, 160 Cal.App.4th at p. 312.) It observed that such review is required only for appointed appellate counsel's representation of an indigent criminal defendant in his first appeal as of right, and pursuant to section 2972 subdivision (a), MDOA² proceedings are civil in nature. (*Taylor*, at p. 312.) Further the decisions of the *Conservatorship of Ben*

¹ Undesignated statutory references are to the Penal Code in effect at the time of the charged offenses.

² Mentally Disordered Offender Act.

C. (2007) 40 Cal.4th 529, and *In re Sade C.* (1996) 13 Cal.4th 952, compel the conclusion that *Wende* review procedures do not apply to postconviction commitment proceedings under the MDOA. (*Taylor*, at p. 312.)

Accordingly, dismissal is appropriate pursuant to *Taylor*.

DISPOSITION

The appeal is dismissed.

/s/
MURRAY, J.

We concur:

/s/
BUTZ, Acting P. J.

/s/
DUARTE, J.